

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:09cv280

DENNIS PATTON,)
)
 Petitioner,)
)
 vs.)
)
)
 ALVIN W. KELLER, JR.,)
 Secretary of NCDOC and)
 VANESA GILBERT, Captain)
 of Henderson County Jail,)
)
 Respondents.)
 _____)

ORDER

THIS MATTER is before the Court upon the Petitioner's Application for Certificate of Appealability [Doc. 17].

On March 25, 2011, the Court entered an Order denying the Petitioner's petition for a writ of habeas corpus. [Doc. 14]. In that Order, the Court declined to issue a certificate of appealability. [Id. at 17]. The Petitioner has filed an appeal from the Order denying his habeas petition and moves the Court to issue a certificate of appealability. [Doc. 17].

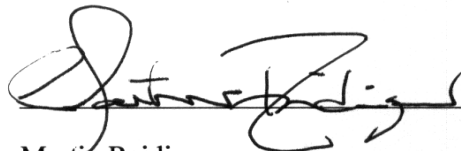
For the reasons stated in the Court's prior Order [Doc. 14], the Court finds that it is clear that Petitioner is not entitled to relief on his claim, and

that the Petitioner has not made a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong). Accordingly, the Court declines to issue a certificate of appealability in this case. See Rule 11(a), Rules Governing Section 2254 Cases in the United States District Courts.

IT IS, THEREFORE, ORDERED that Petitioner's Application for Certificate of Appealability [Doc. 17] is **DENIED**.

IT IS SO ORDERED.

Signed: May 10, 2011


Martin Reidinger
United States District Judge

